

REMARKS

The present filing is responsive to the Office Action.

Summary of the Response

Claim 75 has been amended. Claims 85-93 have been withdrawn. Claims 45-93 remain pending in this application. Reexamination and reconsideration of the present application as amended are respectfully requested.

Restriction

The Examiner maintained the earlier restriction requirements. Applicant disagrees. However, in the interest of forward this case to early allowance, Applicant would not dwell on this issue at this stage. Applicant does not concede to the Examiner's comments.

Claim Rejections Under 35 USC 112

Claim 75 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is respectfully traversed.

Claim 75 has been amended to depend on claim 46, which contains the required antecedent basis for the recited limitations.

Claim Rejections Under 35 USC 102

Claims 45-53, 56-58, 61, 65-67 and 75-83 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Molleker (U.S. Publication No. 2004/0067178). This rejection is respectfully traversed.

The effective date of the primary reference Molleker is October 8, 2002. Applicant respectfully submits that the conception date of the subject matter of at least the subject matter defined by independent claim 45 is prior to October 8, 2002. Applicant respectfully swears behind Molleker.

Attached are Declarations under 37 CFR 1.131 of the co-inventors Alfred A. Kahner, III; Stephen W. Roy; and James L. Unmack, and a Declaration of a representative of the Assignee, Philip Graves. The Declarations refer to the following written disclosure dated September 30, 2002:

“A novel method for control of mold infections in voids in structures utilizing microwave energy and adhesives.

Current methodologies require complete removal of infected materials such as drywall to eliminate mold in infected structures. This requires engineered isolation techniques to prevent inadvertent dispersal of mold spores or volatile organic compounds. The current methods are expensive and disruptive for both owners and tenants.

This method involves first heating, in situ, the suspect or identified moldy area with a directed beam of microwave energy to kill the active mold. The energy is applied to the microwave device after a small hole or holes have been made adjacent to the moldy area and a HEPA vacuum has been attached and the vacuum has been started to create a negative air condition in the void. The HEPA vacuum is the utilized to remove any sporation or voc's that are released when the microwave begins to heat the mold infected area.

After sufficient temperature to kill the mold has been applied to the area an adhesive is applied by spray, foam or fogging the interior of the wall void through the hole or holes previously made. This adhesive acts to bond any spores still remaining in the void to the

existing surfaces thereby minimizing future spore release and the attendant allergen potential.”

The above written disclosure therefore covers the subject matter of at least claim 45, namely: A method for abating contamination present within a cavity in a structure, comprising the steps of exhausting contaminated air in the cavity in a controlled manner (e.g., using a HEPA vacuum) through one or more outlet openings in the structure that are in flow communication with the cavity; and treating a contaminated surface in the cavity in a manner that is substantially non-destructive to the contaminated surface (e.g., application of an adhesive).

Referring to the Declarations of the co-inventors, the written disclosure was completed by the co-inventors at least as early as September 30, 2002, as evident by the email of such written disclosure from one of the co-inventors Stephen Roy to Philip Graves. Philip Grave’s Declaration confirms the date of receipt of Stephen Roy’s email along with the written disclosure on September 30, 2002.

Accordingly, Molleker is not effective 102(e) reference against independent claim 45, and all its dependent claims. The rejection is therefore traversed.

Claim Rejections Under 35 USC 103

Claims 54-55 and 69-72 are rejected under 35 USC 103(a) as being unpatentable over Molleker (U.S. Publication No. 2004/0067178) in view of Bentley (U.S. Publication No. 2004/0091390). Claims 59 and 60 are rejected under 35 USC 103(a) as being unpatentable over Molleker (U.S. Publication No. 2004/0067178). Claims 62-64 are rejected under 35 USC 103(a) as being unpatentable over Molleker (U.S. Publication No. 2004/0067178) in view of Roy (U.S. Patent No. 5,968,401). Claim 68 is rejected under 35 USC 103(a) as being unpatentable over

Molleker (U.S. Publication No. 2004/0067178) in view of Croan et al. (U.S. Patent No. 5,356,624). Claims 73 and 74 are rejected under 35 USC 103(a) as being unpatentable over Molleker (U.S. Publication No. 2004/0067178) in view of Bentley (U.S. Publication No. 2004/0091390) as applied to claims 54-55 and 69-72 above, and further in view of Kourai et al. (U.S. Patent No. 4,826,924). Claim 84 is rejected under 35 USC 103(a) as being unpatentable over Molleker (U.S. Publication No. 2004/0067178) in view of Nadkarni (U.S. Publication No. 2004/0202570). These rejections are respectfully traversed.

Since the primary reference Molleker is not effective prior art reference against independent claim 45, all combination of secondary references with Molleker would likewise be not effective against any of the dependent claims. The secondary references do not make up for the deficiency of Molleker. Accordingly, the 103 rejections are therefore traversed.

CONCLUSION

In view of all the foregoing, Applicant submits that the claims pending in this application are patentable over the references of record and are in condition for allowance. Such action at an early date is earnestly solicited. **The Examiner is invited to call the undersigned representative to discuss any outstanding issues that may not have been adequately addressed in this response.**

The Assistant Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this transmittal and associated documents, or to credit any overpayment to **Deposit Account No. 501288** referencing the attorney docket number of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Wen Liu', written over a horizontal line.

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